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10/776,302	02/11/2004	Dogulas F. Kelly	23122-1203	3553
<div>7590 Mark J. Schidkraut Kaye Scholer LLP 425 Park Avenue New York, NY 10022-3598</div>				
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SAVUSDIPHOL, PAULTEP				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/776,302

**Applicant(s)**

KELLY ET AL.

**Examiner**

Paultep Savusdiphol

**Art Unit**

2876

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 2/11/2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/5508)  
Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

Claims 1-28 have been presented for examination.

### *Claim Objections*

**Claims 2, 5, 8, 11 & 14** are objected to because of the following informalities, which appear to be minor draft errors including grammatical and/or lack of antecedent basis problems.

Regarding **claims 2, 8 & 14, line 2**, a (*comma – “,”*) should be included after “*debit card payment*”.

Regarding **claims 5 & 11, line 2**, “*said defined period of time*” is claimed. There is insufficient antecedent basis for this limitation in the claim. For the purposes of examination, the examiner will interpret this to be “*a defined period of time*”.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. **Claims 1-12** are rejected under 35 U.S.C. 102(e) as being anticipated by **Strayer et al. (US 2004/0054622 A1)**.

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Regarding **claim 1, Strayer** discloses a method for processing financial transactions, comprising:

receiving information relating to a plurality of electronic payment transactions [0009 & 0113];

categorizing each of said electronic payment transactions by one of a plurality of payment types [0043 & 0114]; and

determining a funding amount to be paid to a merchant, for each of said payment types, wherein the funding amount relates to a transaction amount, wherein the transaction amount is based upon at least one of the plurality of electronic payment transactions [0121-0123].

Regarding **claim 2, Strayer** discloses the method of claim 1, wherein said one or more categories of payment types comprise at least one of the following: check payment, debit card payment, credit card payment, stored value card payment, loyalty points redemptions, and electronic benefits transfers [0002-0005, 0014 & 0142].

Regarding **claim 3, Strayer** discloses the method of claim 1, wherein the funding amount is further based upon an processing amount related to one or more transaction processing fees [0121-0123].

Regarding **claim 4, Strayer** discloses the method of claim 1, further comprising: generating a report identifying the funding provided to the merchant [0035-0036 & 0121-0125].

Regarding **claim 5, Strayer** discloses the method of claim 4, wherein the report identifies the electronic payment transactions that transpired prior to a defined period of time [0121-0125].

Regarding **claim 6, Strayer** discloses the method of claim 4, wherein the report is displayed electronically [0035-0039 – *wherein it is disclosed that the system includes a display device and is capable of various operations, one of which is reporting of merchant account activity; therefore an electronic displaying of report information*].

Regarding **claim 7, Strayer** discloses a system for processing financial transactions, comprising:

an interface for receiving information relating to a plurality of electronic payment transactions [0009 & 0113];

a memory device for categorizing each of said electronic payment transactions by one of a plurality of payment types [0036-0043 & 0114]; and

a processor for determining a funding amount to be paid to a merchant, for each of said payment types, wherein the funding amount relates to a transaction amount,

wherein the transaction amount is based upon at least one of the plurality of electronic payment transactions [0036-0040 & 0121-0123].

Regarding **claim 8, Strayer** discloses the system of claim 7, wherein said one or more categories of payment types comprise at least one of the following: check payment, debit card payment, credit card payment, stored value card payment, loyalty points redemptions, and electronic benefits transfers [0002-0005, 0014 & 0142].

Regarding **claim 9, Strayer** discloses the system of claim 7, wherein the processor further determines the funding amount based upon a processing amount relating to one or more transaction processing fees [0121-0123].

Regarding **claim 10, Strayer** discloses the system of claim 7, further comprising: an output device for generating a report identifying the funding provided to the merchant [0035-0036 & 0121-0125].

Regarding **claim 11, Strayer** discloses the system of claim 10, wherein the report identifies the electronic payment transactions that transpired prior to a defined period of time [0121-0125].

Regarding **claim 12, Strayer** discloses the system of claim 10, wherein the report is displayed electronically [0035-0039 – *wherein it is disclosed that the system includes a display device and is capable of various operations, one of which is reporting of merchant account activity; therefore an electronic displaying of report information*].

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 13-28** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Strayer** in view of **Kramer et al. (US 2003/0140007 A1)**.

Regarding **claim 13**, **Strayer** discloses a method for processing financial transactions involving a merchant and consumers, comprising:

receiving information relating to a plurality of electronic payment transactions [0009 & 0113];

categorizing each of said electronic payment transactions by one of a plurality of payment types [0043 & 0114];

identifying one or more categories of electronic payment transactions for which funds are to be transferred from a consumer account and one or more categories of electronic payment transactions for which funds may be transferred from an account associated with a consumer [0043 & 0048-0050];

receiving confirmation respecting the transfer of funds for at least one of electronic payment transactions of the type to be transferred from a consumer account [0098]; and

providing funding to merchant, wherein the amount of said funding relates to the amount of funds for at least one of the electronic payment transactions for which said transfer confirmation is received [0121-0123].

Regarding **claim 14, Strayer** discloses the method of claim 13, wherein said one or more categories of payment types comprise at least one of the following: check payment, debit card payment, credit card payment, stored value card payment, loyalty points redemptions, and electronic benefits transfers [0002-0005, 0014 & 0142].

Regarding **claim 15, Strayer** discloses the method of claim 13, wherein the amount of funding equals the amount of funds for at least one of the electronic payment transactions for which said transfer confirmation is received and the amount of funds respecting the electronic payment transactions that may be transferred from a consumer account [0121-0123].

Regarding **claim 16, Strayer** discloses the method of claim 13, wherein the amount of funding equals the amount of funds for at least one of the electronic payment transactions for which said transfer confirmation is received and the amount of funds respecting the electronic payment transactions that may be transferred from a consumer account, less an amount relating to one or more transaction fees [0121-0123].

Regarding **claim 17, Strayer** discloses the method of claim 13, wherein the received information relates to electronic payment transactions that transpired prior to a defined period of time and is within a predetermined amount of time after said defined period of time [0121-0125].



Regarding **claim 18, Strayer** discloses the method of claim 17, further comprising: generating a report identifying the funding provided to the merchant [0035-0036 & 0121-0125].

Regarding **claim 19, Strayer** discloses the method of claim 18, wherein the report identifies the electronic payment transactions that transpired prior to said defined period of time [0121-0125].

Regarding **claim 20, Strayer** discloses the method of claim 18, wherein the report is displayed electronically [0035-0039 – *wherein it is disclosed that the system includes a display device and is capable of various operations, one of which is reporting of merchant account activity; therefore an electronic displaying of report information*].

Regarding **claim 21, Strayer** discloses a system for processing financial transactions involving a merchant and consumers, comprising:

an interface for receiving information relating to a plurality of electronic payment transactions [0009 & 0113]; and

a memory device for categorizing each of said electronic payment transactions by one of a plurality of payment types [0036-0043 & 0114]; and

a processor:

for identifying one or more categories of electronic payment transactions for which funds are to be transferred from a consumer account, and one or more categories of electronic payment transactions for which funds may be transferred from an account associated with a consumer [0043 & 0048-0050],

for receiving confirmation respecting the transfer of funds for at least one of electronic payment transactions of the type wherein funds are to be transferred from a consumer account [0098], and

for providing funding to merchant, wherein the amount of said funding relates to the amount of funds for at least one of the electronic payment transactions for which said transfer confirmation is received and the amount of funds respecting the electronic payment transactions that may be transferred from a consumer account [0121-0123].

Regarding **claim 22, Strayer** discloses the system of claim 21, wherein said one or more categories of payment types comprise at least one of the following: check payment, debit card payment, credit card payment, stored value card payment, loyalty point redemptions, and electronic benefits transfers [0002-0005, 0014 & 0142].

Regarding **claim 23, Strayer** discloses the system of claim 21, wherein the processor calculates the amount of funding by totaling the amounts of funds for at least one of the electronic payment transactions for which said transfer confirmation is received and the amount of funds respecting the electronic payment transactions that may be transferred from a consumer account [0121-0123].

Regarding **claim 24, Strayer** discloses the system of claim 21, wherein the processor calculates the amount of funding by totaling the amount of funds for at least one of the electronic payment transactions for which said transfer confirmation is received and the amount of funds respecting the electronic payment transactions that

may be transferred from a consumer account, and decrementing an amount relating to one or more transaction fees [0121-0123].

Regarding **claim 25**, **Strayer** discloses the system of claim 21, wherein the received information relates to electronic payment transactions that transpired prior to a defined period of time and is within a predetermined amount of time after said defined period of time [0121-0125].

Regarding **claim 26**, **Strayer** discloses the system of claim 25, further comprising: an output device for generating a report identifying the funding provided to the merchant [0035-0036 & 0121-0125].

Regarding **claim 27**, **Strayer** discloses the system of claim 26, wherein the report includes the electronic payment transactions that transpired prior to said defined period of time [0121-0125].

Regarding **claim 28**, **Strayer** discloses the system of claim 26, wherein the output device is configured for displaying the report electronically [0035-0039 – *wherein it is disclosed that the system includes a display device and is capable of various operations, one of which is reporting of merchant account activity; therefore an electronic displaying of report information*].

**Strayer** fails to teach or particularly point out, identifying a cut-off time for providing to a merchant funding relating to said electronic payment transactions, as recited in **claims 12, 15-17, 21 & 23-25**.

**Kramer** teaches, regarding **claims 12, 15-17, 21 & 23-25**, identifying a cut-off time for providing to a merchant funding relating to said electronic payment transactions [0790, 0796 & 0803].

It would have been obvious to one of ordinary skill in the art at the time the invention was made to further employ the features of **Kramer** with the teachings of **Strayer** for the benefit of providing for a more optimal and efficient system by setting deadlines or goals as the standard for all parties involved for future reference and verification.

### ***Conclusion***

No claims are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PAULTEP SAVUSDIPHOL whose telephone number is (571)270-1301. The examiner can normally be reached on M-F, 8:30 - 5:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (571) 272-2398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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